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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,225	12/03/2003	Thomas R. Kreider	H0005387--1622	7499

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EXAMINER


TORRES, MELANIE

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/728,225	Applicant(s) KREIDER ET AL. 	
	Examiner Melanie Torres	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/3/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, 6, 7, 9-11, 14, 21, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Shtarkman.

Re claims 1, 4, 6, 7, 9-11, 14, 21, 23 and 24, Shtarkman discloses a system for damping vibration of a mass comprising: a housing (13) having at least an outer peripheral surface, configured to mount to the mass, and an inner peripheral surface that defines an interior space, and macro-particles (68) disposed within the housing interior space and able to flow therein, to thereby simulate a fluid. (Column 5, lines 14-27, Figures 1, 2, 6 and 7)

3. Claims 1-3, 6-10, 14, 21, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hovas.

Re claims 1-3, 6-10, 14, 21, 23 and 24, Hovas discloses a system for damping vibration of a mass comprising: a housing (11) having at least an outer peripheral surface, configured to mount to the mass (3, 8), and an inner peripheral surface that defines an interior space, and macro-particles (15) disposed within the housing interior space and able to flow therein, to thereby simulate a fluid.

4. Claims 1-3, 14, and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Lewis et al.

Re claims 1-3, 14, and 21-24, Lewis et al. discloses a system for damping vibration of a mass comprising: a housing (57) having at least an outer peripheral surface, configured to mount to the mass (not shown), and an inner peripheral surface that defines an interior space, and macro-particles (153) disposed within the housing interior space and able to flow therein, to thereby simulate a fluid. (Figure 4, Column 6, lines 21-34)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5, 12, 13 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hovas or Shtarkman.

Re claims 5, neither Hovas nor Shtarkman teach wherein the macro-particles include a mixture of macro-particles having smooth surfaces and fractured surfaces. It would have been an obvious matter of design choice to modify either Hovas or Shtarkman by macro-particles in a variety of shapes since applicant has not disclosed

that having such shapes solves any stated problem or is for any particular purpose and it appears that the system would perform equally well with a variety of different shapes.

Re claims 12 and 13, neither Hovas nor Shtarkman teach wherein the macro-particles are 1 μ m to 1mm in size or comprise a single atom. It would have been an obvious matter of design choice to modify either Hovas or Shtarkman by having the sizes above since applicant has not disclosed that having such sizes solves any stated problem or is for any particular purpose and it appears that the system would perform equally well with a variety of different particle sizes.

Re claims 15-20, neither Hovas nor Shtarkman teach wherein the macro particles are made from graphite, aluminum oxide, a mixture of different materials, ceramic coated metal or metal-coated ceramic. It would have been an obvious matter of design choice to modify either Hovas or Shtarkman by having any of the materials above since applicant has not disclosed that having such materials solves any stated problem or is for any particular purpose and it appears that the system would perform equally well with a variety of different materials.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brown, Gallas et al., Ludwig et al., Monson, Agnihotri et al., and Funaki et al. teach systems for damping the vibration of a mass. Fricke teaches 1mm sized particles.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Torres whose telephone number is (703)305-0293. The examiner can normally be reached on Monday-Friday, 6:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703)308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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October 1, 2004